

Introduced by

**NORTH DAKOTA CENTURY CODE CHAPTER 15.1-27 -  
SCHOOL FINANCE**

Chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**15.1-27-01. Payments to school districts - Distribution.**

1. The superintendent of public instruction shall determine the total state payments made to each school district during the previous fiscal year.
2. The superintendent of public instruction shall pay each district ten percent of the amount determined under subsection 1, within the limits of legislative appropriation, on or before July fifteenth, August first, September first, and October first of each year.
3. The superintendent of public instruction shall determine the amount that, in addition to the payments already made, is necessary to constitute the remainder of the amount due each district for the current school year.
4. On or before November first, the superintendent of public instruction shall pay to each district, within the limits of legislative appropriation, an amount that, in addition to the above payments, constitutes fifty percent of the sum due under this chapter.
5. On or before the first day of December, January, February, March, and April, payments equal to one-fifth of the total remaining payments must be made to each district.
6. If funds appropriated for distribution to districts as per student and transportation aid become available after April first, the superintendent of public instruction shall distribute the newly available payments on or before June thirtieth.

**NOTE:** Present Section 15-40.1-05.

**15.1-27-02. Per student payments - Required reports.**

1. The superintendent of public instruction may not forward state aid payments to a school district beyond the October payment unless the district has filed the following with the superintendent:
  - a. An annual average daily membership report.
  - b. An annual school district financial report.
  - c. The September tenth fall enrollment report.
  - d. The personnel report forms for licensed and nonlicensed employees.
2. On or before December fifteenth, each school district shall file with the superintendent of public instruction the taxable valuation and mill levy certifications. If a district fails to file the taxable valuation and mill levy certifications by the required date, the superintendent of public instruction may not forward to the district any state aid payments to which the district is entitled, until the taxable valuation and mill levy certifications are filed.

**NOTE:** Present Section 15-40.1-06. Present Section 15-40.1-06 contains a number of concepts. For purposes of clarity and comprehension, they have been divided into several separate sections. This section is a rewrite of present Section 15-40.1-06(4) and (5). Whereas present Section 15-40.1-06(4) provides that "[n]o school district may receive foundation payments," the rewrite refers to state aid payments rather than foundation payments, because the phrase "foundation payments" is not defined in statute.

Present Section 15-40.1-06(5) provides that the Superintendent of Public Instruction may not forward the January per student and transportation aid payments unless various certifications are on file with the Superintendent by December 15. If the certifications are filed on December 16, a literal reading of the section would appear to preclude the Superintendent from forwarding the January payment. The committee requested the section be amended to preclude payment until the paperwork is filed.

#### **15.1-27-03. Cost of education - Determination.**

1. The superintendent of public instruction shall determine the educational cost per student.
2. In determining the educational cost per student, the superintendent may not use:
  - a. Capital outlay for buildings.
  - b. Capital outlay for sites.
  - c. Capital outlay for debt service.
  - d. Expenditures for school activities.
  - e. Expenditures for school lunch programs.
  - f. Expenditures for transportation costs, including schoolbuses.

**NOTE:** Present Section 15-40.1-06. Present Section 15-40.1-06 contains a number of concepts. For purposes of clarity and comprehension, they have been divided into several separate sections. This section is a rewrite of present Section 15-40.1-06(1). The statement of legislative intent is omitted.

1       **15.1-27-04. Per student payment.** The per student payment to which each school  
2 district is entitled for the first year of the biennium is two thousand one hundred forty-five  
3 dollars. The per student payment to which each school district is entitled for the second year of  
4 the biennium is two thousand two hundred thirty dollars. The per student amount is the basis  
5 for calculating state payments to school districts, as provided in sections 15.1-27-06 and  
6 15.1-27-07.

**NOTE:** Present Section 15-40.1-06. Present Section 15-40.1-06 contains a number of concepts. For purposes of clarity and comprehension, they have been divided into several separate sections. This section is a rewrite of present Section 15-40.1-06(2)(a). The years of each biennium may be inserted if the amount of per student aid is adjusted.

7       **15.1-27-05. School district equalization factor.** To determine the amount of  
8 payments due a school district, the superintendent of public instruction shall add the tuition  
9 apportionment payments, per student payments, special education aid, and transportation aid  
10 for which a school district is eligible and from that total subtract the following:

- 11           1. The product of thirty-two mills times the latest available net assessed and  
12           equalized valuation of property in the district.
- 13           2. The amount by which the unobligated general fund balance of the district on the  
14           preceding June thirtieth is in excess of seventy-five percent of its actual  
15           expenditures plus twenty thousand dollars.

**NOTE:** Present Section 15-40.1-06. Present Section 15-40.1-06 contains a number of concepts. For purposes of clarity and comprehension, they have been divided into several separate sections. This section is a rewrite of present Section 15-40.1-06(3).

16       **15.1-27-06. Per student payments - Weighting factors - High school students.**  
17 The superintendent of public instruction shall make payments each year, as provided for in this  
18 section, to each school district operating a high school and to each school district contracting to  
19 educate high school students in a federal school, subject to adjustment as provided in section  
20 15.1-27-21.

- 21           1. Each district having under seventy-five students in average daily membership in  
22           grades nine through twelve is entitled to receive the amount of money that results  
23           from multiplying the factor 1.625 adjusted by seventy-five percent of the difference  
24           between 1.625 and the factor representing the five-year average cost of education

per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.

2. Each district having at least seventy-five but fewer than one hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.335 adjusted by seventy-five percent of the difference between 1.335 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
3. Each district having at least one hundred fifty but fewer than five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.24 adjusted by seventy-five percent of the difference between 1.24 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
4. Each district having at least five hundred fifty students in average daily membership in grades nine through twelve is entitled to receive the amount of money that results from multiplying the factor 1.14 adjusted by seventy-five percent of the difference between 1.14 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in grades nine through twelve who are registered in that district, times the per student payment provided for in section 15.1-27-04.
5. Each district having an approved alternative high school education program is entitled to receive the amount of money that results from multiplying the factor in:

- 1           a.    Subsection 1 by the number of students registered in the alternative education
- 2                    program, times the per student payment provided for in section 15.1-27-04, if
- 3                    fewer than seventy-five students in average daily membership are enrolled in
- 4                    the alternative education program.
- 5           b.    Subsection 2 by the number of students registered in the alternative education
- 6                    program, times the per student payment provided for in section 15.1-27-04, if
- 7                    at least seventy-five but fewer than one hundred fifty students in average daily
- 8                    membership are enrolled in the alternative education program.
- 9           c.    Subsection 3 by the number of students registered in the alternative education
- 10                  program, times the per student payment provided for in section 15.1-27-04, if
- 11                  at least one hundred fifty but fewer than five hundred fifty students in average
- 12                  daily membership are enrolled in the alternative education program.
- 13           d.    Subsection 4 by the number of students registered in the alternative education
- 14                  program, times the per student payment provided for in section 15.1-27-04, if
- 15                  at least five hundred fifty students in average daily membership are enrolled in
- 16                  the alternative education program.
- 17    6.    In order to be eligible for enumeration under this section, a student:
- 18           a.    Must have completed the work of the eighth grade;
- 19           b.    Must not have completed the work of the twelfth grade; and
- 20           c.    Must be a resident of this state or a nonresident attending a school in this
- 21                  state under the auspices of a foreign student exchange program.

**NOTE:** Present Sections 15-40.1-07 and 15-40.1-01(2). Present section 15-40.1-07 contains a number of concepts. For purposes of clarity and comprehension, they have been divided into several separate sections. This section is a rewrite of present Section 15-40.1-07(1)-(5). Subsection 6 clarifies the definition of a high school student as contained in present Section 15-40.1-01.

- 22           **15.1-27-07. Per student payments - Weighting factors - Elementary school**
- 23   **students.** The superintendent of public instruction shall make payments each year, as
- 24   provided for in this section, to each school district operating an elementary school and to each
- 25   school district contracting to educate elementary students in a federal school, subject to
- 26   adjustment as provided in section 15.1-27-21.
- 27           1.    a.    Each district having only a one-room rural school is entitled to receive the
- 28                  amount of money that results from multiplying the factor 1.28 adjusted by

seventy-five percent of the difference between 1.28 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through eight in that school, times the per student payment provided for in section 15.1-27-04. The payment level provided for in this subdivision is applicable only to the first sixteen students.

b. If the one-room rural school has more than sixteen students in average daily membership in grades one through eight, the district in which the school is located is entitled to receive ninety percent of the per student payment provided for in section 15.1-27-04 for each additional student. The district is not entitled to any payment for more than twenty students in average daily membership.

c. If a one-room rural school is located in a district having another elementary school, the weighting factor for the students in grades one through six must be based on the average daily membership in the district in grades one through six, as provided in this section.

d. If a one-room rural school is located in a school district with another school that has students in grade seven or eight, the weighting factor for the students in grade seven or eight must be the same as that provided for in subsection 5.

2. Except as provided in subsection 1, each school district having fewer than one hundred students in average daily membership in grades one through six is entitled to receive the amount of money that results from multiplying the factor 1.09 adjusted by seventy-five percent of the difference between 1.09 and the factor representing the five-year average cost of education per student for this category, as determined by the superintendent of public instruction, by the number of students in average daily membership in grades one through six in the district, times the per student payment provided for in section 15.1-27-04. The payment provided for in this subsection is applicable only to the first twenty-five students in average daily membership per classroom or per teacher.

- 1           3. Each school district having at least one hundred students but fewer than one  
2           thousand students in average daily membership in grades one through six is  
3           entitled to receive the amount of money that results from multiplying the factor .905  
4           adjusted by seventy-five percent of the difference between .905 and the factor  
5           representing the five-year average cost of education per student for this category,  
6           as determined by the superintendent of public instruction, by the number of  
7           students in average daily membership in grades one through six in the district,  
8           times the per student payment provided for in section 15.1-27-04. The payment  
9           provided for in this subsection is applicable only to the first twenty-five students in  
10          average daily membership per classroom or per teacher.
- 11          4. Each school district having at least one thousand students in average daily  
12          membership in grades one through six is entitled to receive the amount of money  
13          that results from multiplying the factor .95 adjusted by seventy-five percent of the  
14          difference between .95 and the factor representing the five-year average cost of  
15          education per student for this category, as determined by the superintendent of  
16          public instruction, by the number of students in average daily membership in  
17          grades one through six in the district, times the per student payment provided for in  
18          section 15.1-27-04. The payment provided for in this subsection is applicable only  
19          to the first twenty-five students in average daily membership per classroom or per  
20          teacher.
- 21          5. Each school district having students in grades seven and eight is entitled to receive  
22          the amount of money that results from multiplying the factor 1.01 adjusted by  
23          seventy-five percent of the difference between 1.01 and the factor representing the  
24          five-year average cost of education per student for this category, as determined by  
25          the superintendent of public instruction, by the number of students in average daily  
26          membership in grades seven and eight in the district, times the per student  
27          payment provided for in section 15.1-27-04. The payment provided for in this  
28          subsection is applicable only to the first thirty students in average daily  
29          membership per classroom or per teacher. The payments provided for in this  
30          subsection are not available for students who attend a one-room rural school if that

1 school is the only one in the district that offers educational services to students in  
2 grades seven and eight.

- 3 6. Each school district having a special education program approved by the director  
4 of special education is entitled to receive, for each student who is enrolled in the  
5 program and who is at least three years of age but less than the compulsory age  
6 for school attendance, the amount of money that results from multiplying the factor  
7 1.01 adjusted by seventy-five percent of the difference between 1.01 and the factor  
8 representing the five-year average cost of education per student for this category,  
9 as determined by the superintendent of public instruction, by the number of special  
10 education students in average daily membership in the program who are at least  
11 three years of age but less than the compulsory age for school attendance, times  
12 the per student payment provided for in section 15.1-27-04.

- 13 7. a. Each school district operating a kindergarten as provided for in section  
14 15.1-22-02 is entitled to receive the amount of money that results from  
15 multiplying the factor .50 and the factor representing the five-year average  
16 cost of education per student for this category, as determined by the  
17 superintendent of public instruction, by the number of kindergarten students in  
18 average daily membership in the district, times the per student payment  
19 provided for in section 15.1-27-04. The payment provided for in this  
20 subsection is applicable only to the first twenty-five students in average daily  
21 membership per classroom or per teacher.

- 22 b. In order to receive the full per student payment available under this section, a  
23 district must operate a kindergarten program that provides the equivalent of  
24 ninety full days of classroom instruction during a twelve-month period. A  
25 district is entitled to a prorated payment under this section if it operates a  
26 kindergarten program of shorter duration.

- 27 8. Each school district that educates students who are also enrolled in nonpublic  
28 schools is entitled to receive proportionate payments under this section.

- 29 9. Each school district is entitled to receive as much in total payments for elementary  
30 students as it would have received if it had the highest number of students in the  
31 next lower category.



10. A school district is not entitled to any payments provided for by this chapter unless each teacher employed by the district:

a. Holds a teaching license issued by the education standards and practices board; or

b. Has been approved to teach by the education standards and practices board.

**NOTE:** Present Section 15-40.1-08. Present Section 15-40.1-08 begins with the following: "Payments must be made from state funds to each school district operating an elementary school and to each school district contracting to educate elementary students in a federal school, employing teachers holding valid licenses in accordance with section 15-47-46 and chapter 15-36, adjusted as provided in section 15-40.1-09 ..." The phrase regarding the employment of teachers with valid licenses has been placed in its own subsection (see subsection 10). The rewrite has expanded the original phraseology to allow for the employment of teachers who have been "approved to teach by the education standards and practices board." This expansion stems from a 1999 legislative enactment and is reflected in Section 15.1-13-16(2) of the rewrite, which provides:

An individual may be approved to teach by the board only if the individual has previously held a valid North Dakota teaching certificate, holds a valid teaching certificate or license issued by another state, or has filed a completed application for licensure with the board.

**15.1-27-08. Per student payments - Unaccredited high schools.** If a high school becomes unaccredited, the per student payment to which the school district is entitled during the first year in which the high school is unaccredited is the amount established in section 15.1-27-04. The school district is not entitled to the amount that results from applying the weighting factors provided in section 15.1-27-06. In each successive year, the per student payment to which the school district is entitled for each student in the unaccredited high school must be reduced by an additional two hundred dollars. If a school regains its accreditation, the school is entitled to the per student payments provided for accredited schools for the entire school year in which the school becomes accredited.

**NOTE:** Present Section 15-40.1-06. Present Section 15-40.1-06 contains a number of concepts. For purposes of clarity and comprehension, they have been divided into several separate sections. This section is a rewrite of present Section 15-40.1-06(2)(c). By motion, the committee removed language to rewrite Section 15-40.1-06(2)(b), relating to reduced payments to unapproved high schools.

**15.1-27-09. Per student payments - Unaccredited elementary schools.** If a school district operates an unaccredited elementary school, the per student payment to which the school district is entitled during the first year in which the elementary school is unaccredited is the amount established in section 15.1-27-04. The school district is entitled to the amount that results from applying the weighting factors provided in section 15.1-27-07. In each successive

- 1 year, the per student payment to which the school district is entitled for each student in the  
2 unaccredited elementary school must be reduced by an additional two hundred dollars. If a  
3 school regains its accreditation, the school is entitled to the per student payments provided for  
4 accredited schools for the entire school year in which the school becomes accredited.

**NOTE:** Present Section 15-40.1-06. Present Section 15-40.1-06 contains a number of concepts. For purposes of clarity and comprehension, they have been divided into several separate sections. This section is a rewrite of present Section 15-40.1-06(2)(d).

Present Section 15-40.1-06(2)(c) provides that unaccredited high schools are entitled to the per student payment, without the application of weighting factors. Present Section 15-40.1-06(2)(d) provides that unaccredited elementary schools are entitled to the per student payment, with the application of weighting factors. The committee may wish to review this provision to determine whether it is intentional or inadvertent.

5 **15.1-27-10. Per student payments - Special education.**

- 6 1. Except as provided in subsection 2, each biennium the superintendent of public  
7 instruction shall distribute moneys appropriated by the legislative assembly for per  
8 student special education payments to each school district in the state on the basis  
9 of students in average daily membership. The superintendent of public instruction  
10 shall forward the payments, as calculated under section 15.1-27-05, to eligible  
11 school districts in the same manner and at the same time that the superintendent  
12 distributes per student and transportation aid payments. For purposes of this  
13 section, "special education" means the provision of special services to students  
14 who have special needs, including students who are gifted and talented.  
15 Expenditures under this section may not conflict with nonsupplanting and  
16 maintenance of effort provisions under the Individuals With Disabilities Education  
17 Act, 20 United States Code 1400 et seq.
- 18 2. The superintendent of public instruction may, upon the written request of a school  
19 district, forward all or a portion of the moneys to which the school district is entitled  
20 under this section directly to the special education unit of which the school district  
21 is a member.
- 22 3. The superintendent of public instruction may withhold state special education funds  
23 due a school district if, in response to a complaint, the superintendent finds that the  
24 district is not providing a free appropriate public education to a student, as required  
25 by law. Any withholding under this subsection may not exceed an amount equal to  
26 the cost of meeting the affected student's needs.

**NOTE:** Present Section 15-40.1-07.6.

1       **15.1-27-11. High school districts - Supplemental payments.** The superintendent of  
2 public instruction shall calculate the average valuation of property per student by dividing the  
3 number of students in average daily membership in grades one through twelve in a high school  
4 district into the district's latest available net assessed and equalized taxable valuation of  
5 property. If the quotient is less than the latest available statewide average taxable valuation per  
6 student and if the district's educational expenditure per student is below the most recent  
7 available statewide average cost of education per student, the superintendent of public  
8 instruction shall:

- 9           1. Determine the difference between the latest available statewide average taxable  
10           valuation per student and the average taxable valuation per student in the high  
11           school district;
- 12           2. Multiply the result determined under subsection 1 by the number of students in  
13           average daily membership in grades one through twelve in the high school district;
- 14           3. Multiply the result determined under subsection 2 by the number of general fund  
15           mills levied by the district in excess of one hundred fifty, provided that any mills  
16           levied by the district which are in excess of two hundred ten may not be used in  
17           this calculation; and
- 18           4. Multiply the result determined under subsection 3 by thirty percent. The result is  
19           the supplemental payment to which a high school district is entitled, in addition to  
20           any other amount provided under chapter 15.1-27.

**NOTE:** Present Section 15-40.1-07.8.

21       **15.1-27-12. Per student payments - Limited English proficient students.**

- 22           1. In addition to any other payments provided for by this chapter, each school district  
23           is entitled to receive four hundred dollars for each student who has been assessed  
24           by the student's school district and determined to have negligible or very limited  
25           English language skills as evidenced by a classification of level I or II using the  
26           Woodcock-Munoz language survey.
- 27           2. In order to receive the full payment provided for in this section, a school district  
28           must complete the student assessment required by subsection 1 and forward the  
29           results to the superintendent of public instruction on or before October twenty-fifth

of each school year. The superintendent shall distribute the payments no later than May thirtieth of each school year. The superintendent shall prorate payments under this section for any students registering in the school district after October first or departing from the school district prior to the completion of the school year.

**NOTE:** Present Section 15-40.1-07.7.

**15.1-27-13. Per student payments - Students on active duty.** A school district is entitled to receive payments under this chapter for a student who is absent up to one semester because the student is a member of the North Dakota national guard and is engaged in active duty or training within or outside the state.

**NOTE:** Present Section 15-40.1-07.1.

**15.1-27-14. Per student payments - Students attending school out of state.** For each student attending school out of state in accordance with section 15.1-29-01, the weighting factors provided in sections 15.1-27-06 and 15.1-27-07 must be increased by twenty percent.

**NOTE:** Present Section 15-40.1-08.2.

**15.1-27-15. Per student payments - Isolated schools.**

1. If an elementary school has fewer than fifty students and fifteen percent or more of its students would have to travel beyond a fifteen-mile [24.15-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15.1-27-07 must be increased by twenty percent for the first fifteen students. If the school has fewer than fifteen students, the payment received must be for fifteen students.
2. If a high school has fewer than thirty-five students and fifteen percent or more of its students would have to travel beyond a twenty-mile [32.2-kilometer] radius from their residences in order to attend another school, the weighting factor provided under section 15.1-27-06 must be increased by twenty percent for the first twenty students. If the school has fewer than twenty students, the payment received must be for twenty students.

**NOTE:** Present Section 15-40.1-08.1. The rewrite reflects a terminology change from the previous "small but necessary" to more accurately reflect that payment is based on a school's lack of proximity to other facilities, i.e., its isolation.

**15.1-27-16. Per student payments - Cooperating districts.** If, on or after July 1, 1997, any school district receiving payments under this chapter cooperates with another school

- 1 district for the joint provision of educational services under a plan approved by the  
2 superintendent of public instruction, each cooperating district is entitled to receive, for a period  
3 of four years, at least the same per student payment for each high school and elementary  
4 student as the district received prior to initiation of the cooperative plan.

**NOTE:** Present Section 15-40.1-07.4. The rewrite eliminates subsection 1 of present Section 15-40.1-07.4. That subsection provided payments for four years to districts that entered cooperative plans prior to July 1, 1997. Such districts would not receive payments after June 30, 2001. The effective date of this bill draft, if enacted, will likely be either July 1 or August 1, 2001.

5 **15.1-27-17. Per student payments - Reorganization of school districts.**

- 6 1. If any school district receiving per student payments calculated under section  
7 15.1-27-06 reorganized with another school district under chapter 15.1-12 before  
8 August 1, 1997, the school district resulting from the reorganization is entitled to  
9 receive the same per student payments for each high school student as each  
10 separate school district received for each high school student prior to the  
11 reorganization, for a period of four years.
- 12 2. If any school district receiving per student payments calculated under this chapter  
13 reorganizes with another school district under chapter 15.1-12 after July 31, 1997,  
14 the school district resulting from the reorganization is entitled to receive the same  
15 per student payments for each high school and elementary student as each  
16 separate school district received for each high school and elementary student prior  
17 to the reorganization, for a period of four years.
- 18 3. The weighting factor for each district will be adjusted proportionately over a period  
19 of two years, following the period of time provided in subsection 1 or 2, until the  
20 adjusted weighting factor equals the weighting factor for the combined enrollment  
21 resulting from the reorganization.
- 22 4. Notwithstanding the provisions of any other law, no school district may receive less  
23 in per student payments for the first year of its reorganization than the total amount  
24 that the districts participating in the reorganization received in per student  
25 payments for the school year immediately preceding the reorganization. If less  
26 than a whole school district participated in a reorganization, the superintendent of  
27 public instruction shall prorate the payments to which the newly reorganized district  
28 is entitled under this subsection.

**NOTE:** Present Section 15-40.1-07.3.

**15.1-27-18. Per student payments - Eligibility - Minimum amounts.**

1. A high school district is not entitled to any payments provided for by this chapter unless:
  - a. The district offers four or more units of standard high school work, which may include vocational education units offered in accordance with chapter 15-20.1 and other courses approved by the superintendent of public instruction which were earned in another high school district;
  - b. All teachers employed by the district hold valid teaching licenses issued by the education standards and practices board; and
  - c. All other standards prescribed by this chapter have been met.
2. If a student is enrolled for graduation in a nonpublic school or if a grade twelve student is taking fewer than four units of standard high school work and is enrolled in an approved alternative high school education program, the school district in which the student is enrolled for specific courses is entitled to receive proportionate payments.
3. Each high school district must receive at least as much in total per student payments as it would have received if it had the highest number of students in the next lower weighting category.

**NOTE:** Present Section 15-40.1-07.

**15.1-27-19. Per student payments - Alternative programs.** If a school district determines that a student is no longer enrolled in the regular high school program, the district may apply to the superintendent of public instruction for continuation of per student payments, provided the student enrolls in an approved alternative high school education program. The superintendent of public instruction shall make a reduction in the district's average daily membership if a student ceases to be enrolled in the regular high school program and an addition for the days the student is enrolled in an approved alternative program. If a student enrolls in fewer than four units, the superintendent shall make a proportionate payment based on the number of units carried and the high school weighting factor.

**NOTE:** Present Section 15-40.1-07.2.

**15.1-27-20. Summer school courses and programs - Proportionate payments.**

1. Each school district that offers summer school courses at the high school level is entitled to receive proportionate payments provided each course offered satisfies requirements for graduation, comprises at least as many clock-hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction.
2. A school district that offers remedial summer school programs at the elementary level is entitled to receive proportionate payments provided the programs comply with rules adopted by the superintendent of public instruction.
3. The superintendent of public instruction may adopt rules regarding proportionate payments for remedial summer school programs at the elementary level and summer school courses at the high school level.
4. Proportionate payments made under this section during a biennium for summer school courses or programs may not exceed one and one-half percent of the total amount appropriated by the legislative assembly for per student and transportation aid payments during the biennium, or eight million dollars, whichever is less. No more than seventy-five percent of the amount made available under this subsection may be used to support summer school courses at the high school level and no more than twenty-five percent of the amount made available under this subsection may be used to support remedial summer school programs at the elementary level.

**NOTE:** Present Section 15-40.1-07.10.

**15.1-27-21. Per student payments - Claim by school district - Appeal.**

1. Upon the completion of student registration and in no event later than September tenth of each year, the business manager of a school district, within or outside this state, claiming payments from state funds under the provisions of this chapter, shall file a claim with the county superintendent of schools on a form prescribed by the superintendent of public instruction. The form must state the number of registered high school and elementary school students for whom payments are claimed and any other information requested by the superintendent of public instruction.

- 1           2.   The superintendent of public instruction shall compute the per student payments  
2           on the basis of the previous year's average daily membership less the number of  
3           students attending school during the current school year in another district under  
4           the provisions of open enrollment or the current year's fall enrollment, whichever  
5           provides the greater total payment. The superintendent shall make adjustments in  
6           the subsequent year according to a comparison between the average daily  
7           membership for the year for which the adjusted payment is being made and the  
8           year preceding the year for which the adjusted payment is being made, whichever  
9           is greater, for grade levels that existed in both years. The greater of the two  
10          preceding years' average daily membership must be used in computing any  
11          adjustment in a district's per student and transportation aid payments.
- 12          3.   School districts educating children of agricultural migratory workers and school  
13          districts offering high school summer courses during the months of June, July, and  
14          August are not restricted to payments for a one hundred eighty-day school term.
- 15          4.   Upon termination of the school year and in no event later than July fifteenth, the  
16          business manager of each school district, within or outside this state, which has  
17          received payments from state funds under the provisions of this chapter, shall file  
18          with the county superintendent of schools a verified statement of the name,  
19          residence, and membership of each student and the units of high school work  
20          taken by each student enrolled during the previous school year. The county  
21          superintendent shall investigate the validity of the statement and shall determine  
22          the residence and other qualifications of each student named in the statement.  
23          The county superintendent of schools shall attest to the statement. On or before  
24          September first of each year, the county superintendent shall certify to the  
25          superintendent of public instruction the number of students enrolled in each district  
26          in the county for the previous school year upon which any adjustment may be  
27          based. If the county superintendent disallows any statement in whole or in part,  
28          the county superintendent shall provide notice of the disallowance, together with  
29          the names of the affected students, to the superintendent of public instruction and  
30          to the school district filing the statement.



- 1           5.    A district may appeal the determination of a county superintendent to the
- 2                superintendent of public instruction on or before September fifteenth of the year in
- 3                which the determination is made. The superintendent of public instruction may
- 4                modify the determination of the county superintendent if the evidence submitted by
- 5                the district justifies a modification. The judgment of the superintendent of public
- 6                instruction is final.

**NOTE:** Present Section 15-40.1-09. Present Section 15-40.1-09 consists of a variety of concepts. For purposes of clarity and comprehension, they have been placed in separate subsections.

Present Section 15-40.1-09 contains the following sentence: "Not later than December first, the superintendent of public instruction shall certify to the office of management and budget a list of the school districts and schools not operated by school districts entitled to payments from state funds, together with the amounts to which the several districts and schools are entitled." This sentence was omitted from the rewrite because 1999 Senate Bill No. 2146, introduced by the Office of Management and Budget, had removed the requirement that the Superintendent certify payment amounts to the Office of Management and Budget. Senate Bill No. 2146 removed certification requirements in Sections 15-40.1-05 and 15-44-03 but left the language requiring certification in Section 15-40.1-09.

**15.1-27-22. Payment to school district - Property valuation changes.**

1.    If the taxable valuation of property is diminished because real property is reclassified as personal property as a result of legislative or judicial action, the state payment to an affected school district must be based on the diminished valuation in the year in which it is paid to the district.
2.    If the state payment to a school district is based upon a determination of property valuation that is later diminished by legislative or judicial action, the district has one year from the date of the final determination or adjudication of the property tax base adjustment within which to apply to the superintendent of public instruction for a supplemental state payment in an amount equaling the difference between the amount that the district received and the amount that the district would have received if the correct property tax base had been used.
3.    A school district is entitled to the supplemental state payment provided by this section even if the payment is made in a succeeding biennium.
4.    The superintendent of public instruction shall pay the amount due under this section within the limits of legislative appropriations for per student payments and transportation aid.

**NOTE:** Present Section 15-40.1-04.1. Present Section 15-40.1-04.1 provides: "The superintendent of public instruction shall certify the supplemental payment to which a school district is entitled to the office of management and budget, which shall pay the amounts due within the limits of legislative appropriations for the foundation program." This sentence was altered in the rewrite to provide that the "superintendent of public instruction shall pay the amounts due within the limits of legislative appropriations for the per student payments and transportation aid." Senate Bill No. 2146 (1999), introduced by the Office of Management and Budget, had removed the requirement that the Superintendent certify payment amounts to the Office of Management and Budget. Senate Bill No. 2146 removed certification requirements in Sections 15-40.1-05 and 15-44-03 but left the language requiring certification in Section 15-40.1-04.1.

1       **15.1-27-23. Insufficient moneys - Fractional payments.** If moneys in the state  
2 general fund are insufficient to make all payments to school districts, the superintendent of  
3 public instruction shall prorate the payments on a fractional basis. As additional moneys come  
4 into the fund, payments may be made until the school districts receive all moneys to which they  
5 are entitled. If an appropriation made by the legislative assembly is inadequate to meet all  
6 claims against the appropriation and is therefore the cause of the insufficiency, the prorated  
7 fractional payments made under this section constitute payment in full.

**NOTE:** Present Section 15-40.1-11.

8       **15.1-27-24. Weather or other emergency conditions - Closure of schools - State**  
9 **payments to school districts.** If because of severe weather or other emergency conditions a  
10 school or school district remains closed or provides less than a full day of instruction, the school  
11 or school district shall make every effort to reschedule classes so that students receive at least  
12 one hundred seventy-three full days of instruction. Any school or school district for which the  
13 rescheduling of classes would create undue hardship may request that, for purposes of  
14 calculating state payments to the school or school district, the governor waive the rescheduling  
15 in whole or in part. The governor may not grant a waiver for less than a full day of instruction.

**NOTE:** Present Section 15-40.1-09.2.

16       **15.1-27-25. Taylor Grazing Act funds - Disposition.** The state treasurer shall  
17 apportion payments from the federal government to this state under the provisions of 43 United  
18 States Code 315i (the Taylor Grazing Act) among the counties in the state in the proportion that  
19 the number of acres [hectares] of Taylor Grazing Act land in each county bears to the total  
20 amount of Taylor Grazing Act land in the state. The state treasurer shall make the distributions  
21 to school districts in each county on the basis of average daily membership of all students  
22 residing within the county.

**NOTE:** Present Section 15-40.1-14. The committee needs to review this section and determine whether the reference in the final sentence to the average daily membership of all students residing within the county is appropriate.

**15.1-27-26. Royalties available under federal law - Distribution to counties and school districts.**

1. Any money paid to the state by the secretary of the treasury of the United States under the provisions of an Act of Congress entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" [Pub. L. 66-146; 41 Stat. 437; 30 U.S.C. 181 et seq.] must be credited to the state general fund and must be distributed only pursuant to the terms of this section.
2. Within three months following the calendar quarters ending in March, June, September, and December, the state auditor shall certify to the state treasurer the amount of money the state received during the preceding calendar quarter for royalties under the Act of Congress cited in subsection 1.
3. The state treasurer shall allocate the percentage of the total moneys received as required by this section among the counties in which the minerals were produced based on the proportion each county's mineral royalty revenue bears to the total mineral royalty revenue received by the state for that calendar quarter. The state treasurer shall pay the amount calculated to each county.
4. The counties may use any money received under this section only for the planning, construction, and maintenance of public facilities and the provision of public services.
5. The percentage of money received by the state under the Act of Congress cited in subsection 1 which must be allocated and paid to the counties under this section is ten percent for collections in 2000, twenty percent for collections in 2001, thirty percent for collections in 2002, forty percent for collections in 2003, and fifty percent for collections in 2004 and thereafter.
6. Any remaining money received by the state under the Act of Congress cited in subsection 1 must be distributed to school districts as provided for in this chapter. Any moneys distributed under this subsection are deemed the first moneys withdrawn or expended from the general fund for the purpose of state aid to school districts.

- 1           7.    The funds needed to make the distribution to counties, as provided for in this  
2                section, are hereby appropriated on a continuing basis.

**NOTE:** Present Section 15-40.1-13.

3           **15.1-27-27. School district transportation of students - Payments.**

- 4           1.    Each school district providing transportation to students in contract schoolbuses or  
5                in district-owned and operated schoolbuses, and each school district with students  
6                riding commercial buses to and from school is entitled to receive the following  
7                amounts:
- 8                a.   Twenty-five cents per mile [1.61 kilometers] for each schoolbus and school  
9                vehicle having a capacity of nine or fewer students and transporting students  
10              who reside outside the incorporated limits of the city in which the students'  
11              school is located.
- 12              b.   Sixty-seven cents per mile [1.61 kilometers] for each schoolbus and school  
13              vehicle having a capacity of ten or more students and transporting students  
14              who reside outside the incorporated limits of the city in which the students'  
15              school is located.
- 16              c.   Twenty-five cents per mile [1.61 kilometers] for each schoolbus and school  
17              vehicle transporting students who reside within the incorporated limits of a city  
18              in which the students' school is located.
- 19              d.   Twenty cents for each one-way trip by a student who rides a schoolbus or a  
20              commercial bus to or from school and who resides within the incorporated  
21              limits of the city in which the student's school is located.
- 22           2.    A school district that is entitled to payments for a schoolbus having a capacity of  
23                ten or more students is also entitled to receive forty cents per day for each public  
24                school student who resides outside the city limits and who is transported in such a  
25                bus.
- 26           3.    Only a school district abiding by the laws of this state with respect to schoolbus  
27                standards and schoolbus driver qualifications, as determined by the superintendent  
28                of public instruction, may receive payments under this section.
- 29           4.    For each student transported by family transportation in accordance with section  
30                15.1-31-02, a school district is entitled to receive forty cents per day for each mile

- 1 [1.61 kilometers] over two miles [3.22 kilometers] measured from the front door of  
2 the school attended by the student to the front door of the student's residence,  
3 according to the most convenient route of public travel.

**NOTE:** Present Section 15-40.1-16. Present Section 15-40.1-16 contains the following sentence: "The mileage payments provided for in this subsection must be made to each school district for transporting students to and from school." The rewrite omits the sentence because it is redundant.

Present Section 15-40.1-16 also contains a subsection requiring the Superintendent of Public Instruction to develop and implement a uniform cost accounting system for transportation reimbursement. Because the subject matter is addressed in present Section 15.1-02-08, it was omitted from the rewrite.

4 **15.1-27-28. School district transportation of special education students -**  
5 **Payments.**

- 6 1. Each school district is entitled to receive the following for transporting students  
7 enrolled in special education programs:
- 8 a. If the district transports nine or fewer students per vehicle, the amount  
9 provided in section 15.1-27-27 for the transportation of nine or fewer students  
10 per vehicle.
- 11 b. If the district transports ten or more students per vehicle, the amount provided  
12 in section 15.1-27-27 for the transportation of students in a vehicle having a  
13 capacity of ten or more.
- 14 2. A school district entitled to payments under this section is entitled to transportation  
15 aid for all miles [kilometers] traveled and for each student transported, even if a  
16 student does not live within the incorporated limits of the city in which the student's  
17 school is located.
- 18 3. A school district may not receive more than one per student payment for  
19 transportation of a student regardless of the frequency with which the student is  
20 transported during any one day.
- 21 4. Notwithstanding any other law, the superintendent of public instruction shall make  
22 the payments due a school district under this section directly to a multidistrict  
23 special education unit if requested to do so by the school district.

**NOTE:** Present Section 15-40.1-16.1. Present Section 15-40.1-16.1 addresses transportation payments for both vocational and special education students. The rewrite separates these concepts into two sections.

**15.1-27-29. School district transportation of vocational and technical education students - Payments.**

1. Each school district is entitled to receive an amount for transporting students to and from schools in other districts and to and from schools within the district for vocational and technical education courses offered through cooperative arrangements approved by the state board for vocational and technical education. The amount must be the same for mileage and per day payments as that provided in subdivisions a through c of subsection 1 of section 15.1-27-27.
2. Notwithstanding any other law, the superintendent of public instruction shall make the payments due a school district under this section directly to an area vocational and technology center if requested to do so by the school district.

**NOTE:** Present Section 15-40.1-16.1. Present Section 15-40.1-16.1 addresses transportation payments for both vocational and special education students. The rewrite separates these concepts into two sections.

**15.1-27-30. Transportation payments - Certification of information.**

1. On or before July fifteenth of each year, the business manager of a school district shall certify to the county superintendent of schools the following information regarding the buses that transported students residing outside the incorporated limits of the city in which their school was located:
  - a. The number of buses operated on a contract basis or owned and operated by the district;
  - b. The manufacturer's listed passenger capacity of each bus; and
  - c. The daily mileage that each bus traveled in transporting students.
2. On or before July fifteenth of each year, the business manager of a school district shall certify to the county superintendent of schools the following information regarding the schoolbuses or commercial buses that transported students residing within the incorporated limits of the city in which their school was located:
  - a. A city plat indicating the location of each school building;
  - b. The route traveled by each bus;
  - c. The manufacturer's listed passenger capacity of each bus; and
  - d. The number of one-way bus trips taken during the school year by students residing within the city limits.

- 1           3. On or before July fifteenth of each year, the business manager of each school  
2           district shall certify to the county superintendent of schools the amount of  
3           transportation payments claimed and any other information required by the  
4           superintendent of public instruction.
- 5           4. On or before September first of each year, the county superintendent of schools  
6           shall:
  - 7           a. Certify to the superintendent of public instruction all claims for transportation  
8           payments submitted by each school district in the county; and
  - 9           b. Notify a school district of any claims for transportation payments that have  
10           been disallowed.
- 11          5. A district may appeal the decision of a county superintendent under subsection 4 to  
12          the superintendent of public instruction on or before September fifteenth of the year  
13          in which the determination is made. The superintendent of public instruction may  
14          amend the determination of the county superintendent. The judgment of the  
15          superintendent of public instruction is final.
- 16          6. For purposes of this section, daily mileage means twice the distance computed to  
17          the nearest tenth of a mile [160.93 meters] traveled in a single trip by each bus  
18          over its scheduled route.

**NOTE:** Present Section 15-40.1-17. The rewrite includes the definition of "daily mileage" taken from present Section 15-40.1-15(1).

**15.1-27-31. School district closure - Distribution of transportation payments.**

1. If a school district ceases to exist, the superintendent of public instruction shall calculate the amount of transportation payments to which the former school district would have been entitled for providing transportation services during its final year of operation and shall pay a percentage of the total amount to each North Dakota school district that enrolls students who attended the former school district during the prior school year. Each of the school districts eligible for a payment under this section is entitled to receive that percentage of the total amount which is the same as the percentage that the number of the district's students who attended the former school district during the prior school year bears to the total number of students who attended the former school district during the prior school year.

- 1           2.    The superintendent of public instruction shall pay the amount to which a school  
2                    district is entitled under this section in the manner and at the time provided for  
3                    other state payments in section 15.1-27-01.

**NOTE:** Present Section 15-40.1-18.1. Present Section 15-40.1-18.1 contains the following verbiage: "If a school district ceases to exist, the superintendent of public instruction shall calculate the amount of transportation payments to which the former school district would have been entitled for providing transportation services during the final year of operation and shall certify the amount of transportation payments to the office of management and budget. The office of management and budget shall pay a percentage of the total amount certified to each North Dakota school district that enrolls students who attended the former school district during the prior school year." The rewrite provides that "... the superintendent of public instruction shall calculate the amount of transportation payments to which the former school district would have been entitled ... and shall pay a percentage of the total amount certified to each North Dakota school district ...." Senate Bill No. 2146 (1999), introduced by the Office of Management and Budget, had removed the requirement that the Superintendent certify payment amounts to the Office of Management and Budget. Senate Bill No. 2146 removed certification requirements in Sections 15-40.1-05 and 15-44-03 but left the language requiring certification in Section 15-40.1-18.1.

The rewrite also eliminates some time-specific language regarding payments on or before June 30, 1995.

4           **15.1-27-32. State transportation payments to school districts.**

- 5           1.    The superintendent of public instruction shall forward transportation aid payments  
6                    to school districts in the same manner and at the same time as other payments  
7                    from the state to school districts are made, as provided in section 15.1-27-01.  
8           2.    No school district may receive more than ninety percent of the actual costs it incurs  
9                    in the provision of transportation services.  
10          3.    For purposes of this section, actual costs include the transportation operating  
11                    expenditures reported to the superintendent of public instruction for the most  
12                    recent year plus the eight-year average cost of transportation equipment  
13                    determined by the superintendent of public instruction. Any district that has  
14                    contracted for transportation services, however, may determine its actual costs for  
15                    the first year the district provides its own transportation services by using the  
16                    statewide average cost of transportation during that first year.

**NOTE:** Present Section 15-40.1-18. Present Section 15-40.1-18 contains the following verbiage: "The superintendent of public instruction shall determine the total amount of payments to be made to the school districts for transportation aid. The office of management and budget shall pay the sum certified by the superintendent of public instruction to each school district. Payments must be made in the same manner and at the same time as other payments from the state to school districts are made, as provided in section 15-40.1-05." The rewrite provides that "[t]he superintendent of public



instruction shall forward transportation aid payments to school districts in the same manner and at the same time as other payments from the state to school districts are made, as provided in section 15.1-27-01." Senate Bill No. 2146 (1999), introduced by the Office of Management and Budget, had removed the requirement that the Superintendent certify payment amounts to the Office of Management and Budget. Senate Bill No. 2146 removed certification requirements in Sections 15-40.1-05 and 15-44-03 but left the language requiring certification in Section 15-40.1-18.1.

**15.1-27-33. School district closure - Distribution of per student special education payments.**

1. If a school district ceases to exist, the superintendent of public instruction shall calculate the amount of per student special education payments to which the former school district would have been entitled under section 15.1-27-10 for the provision of special education services during its final year of operation and shall pay a percentage of the total amount to each North Dakota school district that enrolls students who attended the former school district during the prior school year. Each of the school districts eligible for a payment under this section is entitled to receive that percentage of the total amount which is the same as the percentage that the number of the district's students who attended the former school district during the prior school year bears to the total number of students who attended the former school district during the prior school year.
2. The superintendent of public instruction shall make payments under this section in the manner and at the time provided for other state payments in section 15.1-27-01.

**NOTE:** Present Section 15-40.1-07.9. The rewrite omits subsection 3 of present Section 15-40.1-07.9 because it contained time-specific verbiage which is no longer applicable.

**15.1-27-34. Nonoperating school districts - Education of students - State payments.**

1. Notwithstanding the provisions of any other law, a school district operating on July 1, 1999, may become a nonoperating district, provided:
  - a. The board of the district terminates the operation of all public schools in the district;
  - b. The board provides for the education in other school districts of all kindergarten, elementary, and secondary school students residing in the district; and

- 1                   c.    The board pays to each school district educating its students the full per  
2                   student cost of education in the receiving district.
- 3           2.    The board of a nonoperating school district shall continue to employ, on a full-time  
4           or a part-time basis, one person qualified to manage the finances of the district.
- 5           3.    The board of a nonoperating school district is governed by all laws applicable to  
6           the board of an operating school district.
- 7           4.    In lieu of all other state payments, a nonoperating school district under this section  
8           is entitled to receive an amount equal to the per student payment determined  
9           under section 15.1-27-04 and multiplied by the number of students ages six  
10          through seventeen who reside in the district, as established by the latest available  
11          school district census, less the product of thirty-two mills times the latest available  
12          net assessed and equalized valuation of property of the school district.
- 13          5.    A school district may be nonoperational for no more than three school years.
- 14          6.    At or before the conclusion of the three-year period, the nonoperating school  
15          district must become, through reorganization or dissolution, part of one or more  
16          operating school districts.
- 17          7.    A school district that has become a nonoperating district and has accepted state  
18          payments, as provided for by this section, may not revert to an independent  
19          operating district.

**NOTE:** Present Section 15-40.1-07.11.

20           **15.1-27-35. Transfer of funds prohibited - Youth correctional center.** The  
21   superintendent of public instruction may not transfer any portion of the funds appropriated for  
22   per student payments and transportation aid to the youth correctional center to support the  
23   provision of educational services by the youth correctional center.

**NOTE:** Present Section 15-40.1-05.1.